

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION**

Call to Order: By **CHAIRMAN MACK COLE**, on January 15, 1999 at
10:00 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Don Hargrove, Vice Chairman (R)
Sen. Jon Tester (D)
Sen. Jack Wells (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Mary Morris, Acting Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB173, 1/12/99
Executive Action: SB39, SB41, SB42, SB43

HEARING ON SB 173

Sponsor: SEN. JOHN BOHLINGER, SD 7

Proponents: Rodney Garcia, Billings, Montana
Betty Waddell, Montana Association of Churches
Wyman McDonald, Helena, Montana

Opponents: None

Informational Kathy Helland, Acting Bureau Chief, Montana Human
Testimony: Rights Bureau, Department of Labor and Industry
Ellen Swaney, Director of American Indian Minority
Achievement, The Montana University System,

Opening Statement by Sponsor:

SEN. JOHN BOHLINGER indicated that his Senate District is probably the most racially and economically diverse in the state. According to the 1990 census, Hispanics, Blacks and Asians represented nearly 5% of Yellowstone County's population, and nearly 2.5% of the state's population. American Indians were nearly 3% of the county's population and nearly 6% of the state's population.

In 1971, the office of State Coordinator for Indian Affairs was established to serve in a governmental capacity as an advocate for the state's American Indians. SB173 will establish an office of State Coordinator for Ethnic Affairs within the Human Rights Commission. **SEN. BOHLINGER** noted that this would not expand government or create new taxes, but is needed to assist our minority population in matters of education, employment and housing. Many of these people arrive in Montana without the ability to communicate or an understanding of our customs and traditions, nor our way of doing business, and they need an advocate to assist them in becoming good citizens. The Human Rights Commission is responsible for the enforcement of the Montana Human Rights Act and the Governmental Code of Fair Practices, and for enforcing laws which prohibit discrimination in employment and housing, public accommodations, financing and credit transactions, insurance, education and governmental services.

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In the Governor's executive budget for the coming biennium, \$87,700 General Fund money is allocated to fund the Human Rights share of the agency's administration costs, and the Governor has requested a supplemental appropriation of \$237,116 to enable the programs to satisfy legislative mandates. This program should be funded from the Governor's budget proposal of \$412,516. The Office of Indian Affairs is budgeted for \$231,904 over the next biennium. That office serves as liaison with the state Indian tribes, and provides information and public support on issues confronting the Indians of Montana, advising and making recommendations on these issues to the Legislature as well as to the executive branch. A similar office is needed for the other ethnic groups in Montana.

SEN. BOHLINGER explained the bill, section by section. He referred to page 1, lines 27-28, and indicated he would like to request an amendment to include "Caucasians of national origin other than the United States", noting that American Indians would be excluded as there already exists a State Coordinator for Indian Affairs.

He pointed out that the fiscal note indicates a cost of \$72,800 for fiscal year 2000, and \$69,800 for fiscal year 2001. He reported that he sponsored this same bill, with nothing changed, in the last session, and it had a fiscal note of \$61,234 for fiscal year 1998 and \$68,234 for fiscal year 1999. **SEN.**

BOHLINGER stated that he finds it difficult to understand why there would be an increase of 19.36% over the last projection, that inflation has not reached that level, and he would suggest there is something wrong with the fiscal note.

{Tape : 1; Side : A; Approx. Time Counter : 5 - 11}

Proponents' Testimony:

Rodney Garcia, Billings, Montana, reported that he served in the House of Representatives in 1985, and that this bill was introduced in that session, but did not pass third reading of the Senate.

He indicated that there is a very high population of Hispanics and Blacks in state corrections facilities. The City of Billings has 512 full-time jobs for males, 498 of which are filled by Caucasians. Of the remaining 14 jobs, 2 are held by Blacks, 8 by Hispanics, 1 by an Asian and 3 by American Indians. Of the 154 jobs for females, 153 are held by Caucasians and 1 by a Hispanic. He noted this is shocking, considering the large population of Yellowstone County. He then reported that the Human Rights Commission does their best, but the minorities have no voice, the Montana Human Rights Network does not speak to them, nor does the city commission, and therefore ethnic minorities pay taxes but have no voice in government.

He reported that the average income for people of different cultures is \$15,009 compared to \$42,000 for Caucasians and then asked the committee to consider that, of the state of Montana's 15,000 employees, 28 are Black and 128 are Hispanics, adding that Hispanics and Blacks are not referred for job placement by the Job Service, and the job placement program is a waste of tax dollars. He said they are not asking for much money, just for a voice in our government.

Mr. Garcia stated that, in 1979, HJR 19 was passed to do a study on Hispanics. The study took 2 years and presented possible solutions to the problems, but nothing has changed. He cited an example of discrimination against people of different cultures, and stated that, of 100 children who start elementary school, only 47 will ever graduate from high school in Montana. He reiterated that they are not asking for much money, only 1/100,000th of a percent, and they will present solutions to the problems of people of different cultures. He said right now we have no voice; please give us a voice, too.

Betty Waddell, Montana Association of Churches, distributed copies of the 1990 U.S. Census Data, **EXHIBIT(sts11a01)**, and pointed out that page 2 lists the number of people, by age, who are not in poverty and page 3 lists those that are in poverty. She then distributed copies of the Montana Association of Churches position paper, **EXHIBIT(sts11a02)**, explaining that they have long had a strong stand on human rights. and she then read sections of the material. **Ms. Waddell** stated that, in this session when they are talking about jobs and incomes, perhaps they should provide more money for the Human Rights Commission to fund an Ethnic Coordinator who could help bring in jobs for low income people.

She reported that the Montana Association of Churches is concerned with the growing "underclass" in our society, that there is an enormous wage gap and many people who are denied participation in society in a variety of ways. They are also concerned about acts of discrimination and prejudice. She read a portion of **EXHIBIT(2)**, and stated that she believes this Ethnic Coordinator would help people feel free to gain those rights and enter into society in all ways.

Ms. Waddell indicated that cultural diversity is a wonderful thing and is celebrated by many communities in a variety of ways and, if we could have someone promote these activities, and also promote them as economic activities, we would be making a better Montana. She encouraged the committee to pass this bill.

{Tape : 1; Side : A; Approx. Time Counter : 11 - 28}

Wyman McDonald, Helena, Montana, reported that he is the Coordinator, Office of Indian Affairs, Office of the Governor, but that he is not speaking today on behalf of the Governor. He stated that he personally supports the bill, and that **SEN. BOHLINGER** and **Mr. Garcia** have agreed to remove Indians from the bill, primarily so as not to confuse the duties and responsibilities of the Office of Indian Affairs, Office of the Governor, with the proposed State Coordinator for Ethnic Affairs.

He reported that, in minority populations off reservations, particularly in Billings, the people quickly assimilate with each other and there are many people of Native American origin who often are intermarried with Hispanic and Black Americans, and other minorities. He indicated that he has personal experience with off-reservation living in Billings, and understands the disenfranchisement that occurs to people in those communities, and that he would hope removing the language "Indian" or "Native American" from the bill would not preclude that office from providing services to Indian people in those communities as they can, as probably most of them have mixed ethnic racial backgrounds. He noted that his thought would be that these people would also be eligible to receive services through his office, but they would be much closer to the office of Ethnic Affairs in Billings. He then stated that he could not stress strongly enough the importance of role models, of identification with people who have successful lives and careers, so that particularly young people can see there is the possibility to participate in this society. He reiterated his support of the bill.

{Tape : 1; Side : A; Approx. Time Counter : 28 - 34}

Informational Testimony:

Kathy Helland, Acting Bureau Chief, Montana Human Rights Bureau, Department of Labor and Industry, stated that, while the Department of Labor and Industry recognizes the importance of the stated purpose of this bill, the Department is concerned because SB173 does not provide additional funding for the position of Coordinator of Ethnic Affairs. She pointed out that it is proposed that this position would be paid for through the budget of the Montana Human Rights Commission, but that, in 1997, the Commission was reorganized and the staff was placed within the Department of Labor and Industry. Operating costs associated with the Commission are now funded through the Department of Labor and Industry's Human Rights Bureau.

She reported that, if they were required to absorb the costs associated with SB173 within their current budget, it would divert resources from processing discrimination complaints filed under the Montana Human Rights Act, resulting in case processing delays and inability to meet the time-lines mandated by SB350.

Ellen Swaney, Director of American Indian Minority Achievement, The Montana University System, reported that the University System incorporates outreach efforts for serving minority populations. She said they are diligently pursuing recruiting minority students, and all units of the University System have

minority action plans to recruit more American Indian as well as Black, Hispanic and Asian students. **Ms. Swaney** indicated the University System offers their services, and would be happy to provide any information the committee might need.

Questions from Committee Members and Responses:

SEN. WILSON referred to page 2, section 4, subsection 3 of the bill, and asked **Mr. Garcia** where in Montana the State Coordinator for Ethnic Affairs would be located, at this point. **Mr. Garcia** responded Yellowstone County, Billings, Montana. **SEN. WILSON** then asked if those populations might change, and Yellowstone County might no longer be eligible for that office to be located in, according to the criteria set out in the bill. He pointed out that the Bureau of Human Rights is located in Helena, a more central area where many decisions affecting all races are made, and asked if it would be better to base that office in Helena. **Mr. Garcia** indicated that it was his understanding the state would like to de-centralize state government, that this office would be located in the area with the largest population of people of different cultures and, if that population shifted, the office would be relocated. **SEN. WILSON** asked if there is anything in the bill which would trigger that relocation. **Mr. Garcia** pointed out that the language in section 4, part 3 reads "...ethnic affairs must be located...", and that the key word is "must". He added that Yellowstone County is the ideal location at this time. The Blacks, Hispanics and American Indians are trying to come up with solutions and meet with government representatives, but the door is not open, and this office may help. **CHAIRMAN COLE** pointed out that the language "...based on the latest U.S. census." is included in section 4, part 3 of the bill, which would trigger the relocation of that office should the population change.

{Tape : 1; Side : A; Approx. Time Counter : 34 - 41; Comments : End of Side A, Tape 1}

SEN. HARGROVE asked who the Coordinator for Ethnic Affairs would be responsible to, noting that it is not clear in the bill. **Mr. Garcia** responded that there are other organizations which would provide assistance to the Coordinator, but the Coordinator would be responsible to the Legislature and the Governor.

SEN. HARGROVE asked if there was any money in the budget for relocation expenses, noting that this person would most likely be selected from some other area in Montana. **SEN. BOHLINGER** responded that relocation expenses are not contemplated in the budget, adding that the monies would be provided to relocate a person. He added that it is his understanding this person would

be appointed by the Governor and would be responsible to the Governor but, if this is not clearly stated, perhaps the committee might wish to tighten that language.

SEN. WELLS asked **Mr. McDonald** to give a brief summary of the duties and responsibilities of the Office of Indian Affairs, how that office was established and how it compares to this proposed office. **Mr. McDonald** responded that he believes the two are comparable, but with different constituencies. He indicated that he does not know the particular time or circumstances under which the office was created, but he believes there has always been an office in state government. He noted that, at one time, it was part of the Office of Education and, later, part of the Department of Commerce before it was determined this office should be part of the Governor's office.

Laurie Ryan, Office of Indian Affairs, reported that, before reorganization, this office was budgeted through the Department of Commerce however, the direction has always come from the Governor's office.

Mr. McDonald reported that the primary function of his office is coordinating the activities of tribal governments and individuals with state and federal government, primarily to get everyone working together. They provide policy advice to the Governor and the Legislature, as well as to tribal governments, individuals, and the public at large.

{Tape : 1; Side : B; Approx. Time Counter : 41 - 47}

SEN. WELLS asked how effective they have been, and how they view the progression or betterment of the Indian population, compared to other ethnic groups, as a result of their efforts. **Mr. McDonald** indicated that the Indians in the western part of the state have the advantage of greater natural resources and money than the tribes in the eastern part of the state, who have the disadvantage of distance, time and physical resources. They are land rich and money poor. He stated that, overall, he thinks it can be readily shown that the Indian people in this state, as well as throughout the nation, are the furthest down the socio-economic ladder than any other minority group in the nation.

Mr. McDonald further talked about the disadvantages of the Indian people but **CHAIRMAN COLE** asked that he direct his response to the question. **SEN. WELLS** reiterated that his question was how effective **Mr. McDonald** felt his office has been. **Mr. McDonald** then responded that statistics show that not a great deal has happened. He reported that he has been in this office for 2 1/2 years, and it is very difficult to crack the problem areas. He

reported that, when a tribe exerts their sovereign status, a polarization takes place and people become confused as to whether the issue is government or economic systems, or racism. He stated that this is particularly difficult for the young people to understand, and he thinks there needs to be a greater emphasis in the school system on the history of the people. At least to identify, if not explain what the driving issues are.

SEN. WELLS asked **Mr. Garcia**, recognizing that the ethnic groups this bill is referring to are not a sovereign nation and do not have tribal governments, how he would view this office, and if it would be more effective in the sense of countering and contending with racism and discrimination. **Mr. Garcia** responded that the bill was introduced so they can make a positive change in Montana by coming up with solutions, that they have been working on solutions but no one wants to listen to them, and they are asking for a tool to present their problems and solutions. He added that he thinks it would be a good pilot program for the rest of the nation, and that it will work.

SEN. TESTER referred to page 2, section 7, and asked **Mr. Garcia** what he considers the primary duties of this person. **Mr. Garcia** responded that the primary duties as they see them would be to meet with people of different cultures to find out what the problems are, come up with workable solutions, and meet with the Governor and the Legislature to implement those solutions.

{Tape : 1; Side : B; Approx. Time Counter : 47 - 57}

SEN. TESTER referred to earlier testimony that the Human Rights people do not speak to the ethnic people because they are "in the shadows", and asked **Ms. Helland** why the Human Rights people can not address those concerns, if there are some inherent problems with that department or if they have never been given focus. **Ms. Helland** pointed out that previous testimony was "the Human Rights Commission tries its best, but the Human Rights Network does not see us." She explained that the Human Rights Commission, or Human Rights Bureau, is part of the Montana Department of Labor and Industry, a state government agency. The Human Rights Network, however, is a private, non-profit organization that works on a number of discrimination issues, and they are not part of state government. She then indicated that the primary work of the Human Rights Bureau is processing discrimination complaints, and most of their resources are put into that. They also do some public speaking and training on discrimination issues, but the main focus is processing of complaints.

SEN. TESTER asked if it is within the Human Rights Commission's charge to reach out to minorities to represent them in

government. **Ms. Helland** responded that the statute says they are to provide education and deal with discrimination in the state of Montana.

SEN. TESTER referred to testimony by **Ms. Helland** that, if this funding comes out of their budget, it has the potential of delaying the processing of discrimination complaints. He stated that he has a concern that the net effect would be negative, and that they may not accomplish the intended goals. He indicated that he does not know if one person stationed in Billings could reach out to minority individuals in a state the size of Montana, gather accurate information, and be able to come back to the Legislature, and that the down-side would be delays in processing discrimination complaints. He said that, if someone sees this differently, he would like to hear their opinion.

Mr. Garcia responded that they believe this would relieve the cases presented to the Human Rights Commission, that it is best to be pro-active and educate people. He cited an instance where a bank had conducted cultural sensitivity training and, when another bank laid-off people of different cultures, those people went to work for the other bank instead of filing charges. He said this would relieve the case load of the Human Rights Commission, as well as provide education and solutions to problems. He added that it will relieve the budget, that it would be a savings.

{Tape : 1; Side : B; Approx. Time Counter : 57 - 64}

Mr. McDonald asked to make a couple of brief comments to answer **SEN. WELLS'** question a little better. He said that it is difficult to measure the success or failure of the Office of Indian Affairs because it is advisory in nature. All you have to look at over a period of time is whether the socio-economic statistics show improvement in the Indian people's lives. He stated that, before the Governor leaves office, he would like to develop a new Indian policy statement for the Governor's, the Legislature's and the tribes' approval, that would show a blueprint of the important economic development and social concerns, and would provide direction, adding that Indian people are not political, although most of them vote Democrat, and that is not the kind of voice or forum for Indian people. There needs to be an objective, bi-partisan approach to dealing with Indian affairs, and he understands that Rep. Carol Juneau and Rep. Jay Stovall are presenting proposals for study resolutions to talk about the development of a bi-partisan Commission on Indian Affairs to discuss the situation with legislators, the Governor, the public at large and tribal leaders.

CHAIRMAN COLE asked if there are other states that have this same type of office or coordinator. **SEN. BOHLINGER** responded that in preparing for this bill, he did not look into that, although it is a good question and would be worth some investigation.

CHAIRMAN COLE suggested that, if possible, he provide this information before the committee takes executive action.

Closing by Sponsor:

SEN. BOHLINGER referenced previous testimony regarding the number of minorities employed by both the City of Billings and Yellowstone County, compared to the total number of employees, and stated that this should be of some concern. He then referred to testimony regarding U.S. census data which shows that a disproportionate number of the poor people in the country are members of minority populations. He stated that he thinks the committee will agree that the way out of poverty is through education, and one of the important functions of the Coordinator of Ethnic Affairs would be to educate the minority young to stay in school and complete their education because, without it, they will be destined to a life of poverty.

SEN. BOHLINGER quoted from the Declaration of Independence, "That we hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted of men, deriving their just powers from the consent of the governed." He stated that it is this commitment which is the foundation of freedom, and it is this commitment that calls us to the task of establishing this office for Coordinator of Ethnic Affairs.

{Tape : 1; Side : B; Approx. Time Counter : 64 - 75}

EXECUTIVE ACTION

Discussion:

CHAIRMAN COLE announced that the committee will consider SB39 and SB43.

Mr. Niss reported that **Greg Petesch, Legislative Services Division**, stated that it was a conscious decision not to incorporate a coordination provision between SB39 and SB43. He indicated that one reason was that two unrelated issues would be combined in the same bill, which is the basis for the argument that CI-75 is unconstitutional, and the other reason was that both bills are subject to the requirement that they receive a 2/3

vote of both houses and are, in effect, submitted to the people once that vote occurs on both bills. There was probably a feeling that they were unsure what the effect would be if both passed, one with the coordination clause.

{Tape : 1; Side : B; Approx. Time Counter : 75 - 79; Comments : End of Side B, Tape 1}

Mr. Niss noted that he did not get the opportunity to discuss this with **Mr. Petesch** or the bill drafter, **Valencia Lane**, but he believes this had to have been discussed with the sponsor, **SEN. TAYLOR**, even though he was who asked for that amendment. **Mr. Niss** added that **Mr. Petesch** agrees that, if SB39 does not pass, SB43 can not be implemented.

There was general discussion regarding the required 2/3 vote. **Mr. Niss** pointed out that, because these bills require a vote of the bodies of the whole, they must be reported to the body regardless of the vote in committee, and the committee may not table the bills.

Motion: **SEN. WILSON** moved that **AMENDMENT 4301.adl DO PASS.**

SEN. WELLS asked for clarification of the amendment. **SEN. WILSON** explained that it simply changes the effective date. **Mr. Niss** explained that the bill needs 2/3 vote of both houses, not each, which is why one body can not keep it from the other. **SEN. WELLS** pointed out that this committee is part of the body of the Senate, therefore no matter what this committee decides to do, it still has to go to the floor of the Senate, that this committee does not have the authority to make a decision at this level. **Mr. Niss** confirmed that is correct.

Vote: Motion that **AMENDMENT 4301.ADL DO PASS** carried unanimously.

{Tape : 2; Side : A; Approx. Time Counter : 79 - 90}

Motion: **SEN. WILSON** moved that **SB39 DO PASS AS AMENDED.**

Discussion:

SEN. HARGROVE pointed out that term limits have not yet had a chance to take effect and he is not comfortable turning this around before they have had a chance to experience it. He stated that he can see some very good reasons for term limits, although he can also see some reasons against it, but that we have not had a reason to look at it any other way. He said that he suspects

one reason people voted for term limits was that they expected better representation, and with term limits, legislators are closer to the people, closer to their election, a little more accountable, and they do not have any reason to serve in terms of prestige, leadership or influence. He added that if this is sent back to the people, it is telling them that they did not know what they were doing, and he intends to oppose the bill.

SEN. WILSON said that he respects **SEN. HARGROVE's** position but that, when term limits were enacted, there was a vocal minority who created some seductive language, and he believes many voters did not make a fully-informed decision. He added that many people have expressed to him that they did not realize the full implications of what they were doing.

SEN. WELLS indicated that he understands the comments on both sides, but that most of the people he has discussed this with support term limits. He stated that he feels this is tinkering with the system before the system has been permitted to work, and he is not sure that people who say they made a mistake are in great enough numbers to tell the rest of the people we want you to try it again. He added that, if a mistake was made, that will come out as time goes by, that if an error was made, it will be evidenced and then would be a better time to present this back to the people but, at this point, he does not think there is enough evidence whether a mistake has been made or not, and he is not supportive of the bill at this point.

SEN. WILSON pointed out that the effective date of this bill is the year 2003 and that, regardless of the opposing opinions, term limits will take effect but this bill would give legislators a greater chance to gain experience and improve this institution.

SEN. TESTER asked **Mr. Niss** to confirm that, regardless of the committee's vote, the bill would still have to be reported to the full Senate. **Mr. Niss** reported that he stepped out of the committee room and spoke with the drafter of the bill, who indicated that the committee of the first house can, in fact, hold the bill on a table or do not pass vote, and not send it to the floor of the Senate. He added that she was not certain if the committee in the second house could do so.

Mr. Niss noted that **SEN. WILSON** has offered a motion that SB39 do pass as amended, but pointed out that the amendment the committee adopted was to SB43, and SB39 has not been amended.

{Tape : 2; Side : A; Approx. Time Counter : 90 - 99}

Substitute Motion: SEN. WILSON made a substitute motion that SB39 DO PASS.

Substitute Motion: SEN. HARGROVE made a substitute motion that SB39 BE TABLED.

Discussion:

CHAIRMAN COLE pointed out that term limits were determined unconstitutional for nationally elected officials, and stated that term limits have the effect of limiting who the people can vote for, adding that term limits occur every time the people go to the ballot box. He suggested that term limits be voted on in each district so that only those districts that want term limits would have them. He stated that he will not vote to table the bill.

Vote: Substitute motion that SB39 BE TABLED failed 2-3 on roll call vote with Tester, Wilson and Cole voting no.

There was discussion among the committee members about whether the bill would still go to the floor of the Senate with a do not pass committee report. Mr. Niss confirmed that this bill would be treated the same as any other bill with a do not pass committee report.

Vote: Substitute motion that SB39 DO PASS carried 3-2 with Hargrove and Wells voting no.

{Tape : 2; Side : A; Approx. Time Counter : 99 - 107}

Motion: SEN. WILSON moved that SB43 DO PASS AS AMENDED.

Discussion:

SEN. HARGROVE pointed out that the reason for 2-year terms in the House of Representatives was accountability to the people for spending their resources, and that still exists here, noting that the people who are dealing with the money should be scared all the time, and that he thinks the people who provide the money expect that. He stated that he will vote against the motion, and will probably make a motion to table the bill.

SEN. TESTER said he agrees with SEN. HARGROVE, that it is a situation of accountability.

SEN. WILSON indicated that he can agree with that, but pointed out that members of the House of Representatives have 2-year terms, that the legislative session becomes a sounding board for

re-election, and he does not think it's a bad idea to extend the term to lessen that somewhat. He added that U.S. Senators are elected for 6 years, and that works very well. He pointed out that term limits were rejected on a national level, that they were found to be unconstitutional, that the states should not and could not dictate federal conditions, and he would agree with **CHAIRMAN COLE** that what is good for us is good for them.

SEN. WELLS said he agrees with **SEN. HARGROVE's** regarding the original establishment of a 2-year term for the House of Representatives, indicating that it goes in consonance with the rule that all revenue bills begin in the House. He added that another concern he has is campaign financing, that the figures in Montana has been going up, and he is worried they will go even higher if Senate candidates are running for 6-year terms.

CHAIRMAN COLE noted that there are differences in how Senate and House candidates campaign, and in the size of their districts, but members of the House have to run for re-election after serving on 90 days. He indicated that full-time congressmen in Washington, D.C. have the facilities and a better opportunity to put together an organization to run for re-election. He added that, in Montana, the districts are getting larger, requiring more travel and time to campaign, and he believes 4-year terms for the House of Representatives will result in a better quality of legislators. He noted that North Dakota has 4-year terms in the House, and report seeing an appreciable improvement in the quality of the people serving. He stated that he would like to see this bill come out of committee and be debated.

Substitute Motion/Vote: **SEN. HARGROVE** made a substitute motion that **SB43 BE TABLED**. **Substitute motion carried 4-1 with Wilson voting no.**

SEN. HARGROVE noted that he could see some good things in the 2 bills the committee just voted on, but the major reason for his opposition is that the people wanted term limits and we have not given them a chance. If the people want to change it, they can. He noted that, were he to vote on the other bills without the people's will, he would have voted differently. He indicated that he does not think there is a problem and, since the people have not touched it, we should not try to fix it.

{Tape : 2; Side : A; Approx. Time Counter : 107 - 120; Comments : End of Side A, Tape 2}

SEN. WELLS said that he disagrees with **SEN. HARGROVE**, pointing out that the judges have overturned decisions by either the Legislature or the people. He gave the example that the

"reasonable and prudent" speed limit law was overturned as unconstitutional or too vague, and pointed out that careless driving is not driving reasonably and prudently, but that is okay. He added that a number of his constituents have commented that judges have too much power, that they are making law rather than interpreting it, and he thinks something needs to be done about it. He referred to testimony by Justice Turnage that new judges give good judgments and their philosophy would be the same throughout their term, but that they would not be able to do it as fast, and stated that he would propose, if the system could be improved, perhaps there would not be so many court cases. He added that the Legislature is trying to do that through other things, and through judicious law-making, and he is not concerned that a judge needs to stay on the bench for a lifetime. He said that testimony indicated it is difficult to go from one career to another, but he would propose this is done all the time in other branches of government, pointing out that legislators run for office even though they only serve for 90 days, but they work harder the rest of the year. He added that if judges were not looking at a new career, but a term of service on the bench, it would not be so difficult for them to return to practice.

SEN. TESTER noted that **SEN. HARGROVE** and **SEN. WELLS** both made good points. He said that he thinks consistency and experience do play an important role in the judicial branch, that the courts do make mistakes occasionally, but that he thinks they do a pretty good job because of the experience factor, and he will oppose the bill.

SEN. WILSON said he is inclined to agree somewhat with **SEN. WELLS**, and he would like to see this debated on the floor, which is why he will vote in favor of the bill. He pointed out that testimony of the judicial people made the same arguments against term limits that were made for the Legislative branch, and stated that there is inequality among the Legislative, Executive and Judicial branches. He said that he does not see them different from legislators with regard to their right to run for public office, and indicated that if term limits were imposed on judges, perhaps the issue could be addressed in the proper forum to the proper conclusion.

{Tape : 2; Side : B; Approx. Time Counter : 120 - 127}

CHAIRMAN COLE reiterated that this is limiting who the people can vote for, and pointed out that, especially in rural areas, there are not many people who are seeking judicial positions. He stated that he will vote against both of these bills.

Motion/Vote: SEN. HARGROVE moved that SB41 BE TABLED. Motion carried 3-2 with Wells and WILSON voting no.

Motion/Vote: SEN. HARGROVE moved that SB42 BE TABLED. Motion carried 4-1 with Wilson voting no.

CHAIRMAN COLE announced the committee would hear SB140 and SB195 on Monday and, if there is time, they will take executive action on SB11.

ADJOURNMENT

Adjournment: 12:10 P.M.

SEN. MACK COLE, Chairman

MARY MORRIS, Acting Secretary

MC/MM

EXHIBIT(sts11aad)